

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

IN THE MATTER OF:

JAMES DAVID HERSHBERGER
Debtor

CASE NUMBER: 21-31682
CHAPTER 13

TRUSTEE'S MOTION OBJECTING TO DISCHARGE AS TIME BARRED
FOR JAMES DAVID HERSHBERGER UNDER 11 USC 1328(f) and FED. R. BANK. PROC.
4004

COMES NOW, the Trustee, Debra L. Miller, and for her Motion Objecting to Discharge as time barred, states:

1. Debtor, James David Hershberger, filed this bankruptcy on December 27, 2021.
2. Debtor, James David Hershberger, received a discharge in a prior Chapter 7 bankruptcy case number 19-31573 filed August 27, 2019.
3. Pursuant to 11 U.S.C. §1328(f), the Debtor of a Chapter 13 case is not eligible for a discharge if the Debtor has received a discharge in a case filed under Chapter 7, 11, or 12 during a 4-year period preceding the date of the order for relief under this Chapter or in a case filed under Chapter 13 of this title during the 2-year period preceding that date of such order.
4. As the date of filing in Case 19-31573 is within 4 years of the filing date of this bankruptcy, the Debtor is barred from obtaining a discharge in the current bankruptcy pursuant to 11 USC 1328(f).

WHEREFORE, for the reasons stated above, the Trustee moves that the Court find that the Debtor, James David Hershberger, is not entitled to a discharge.

Dated: January 12, 2022

Respectfully submitted,


/s/Debra L. Miller, Trustee

Debra L. Miller, Trustee
Standing Chapter 13 Trustee
P. O. Box 11550
South Bend, Indiana 46634
(574) 254-1313

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Motion was served as follows on

January 12, 2022

By U. S. Mail postage prepaid:

Debtor: James Hershberger, 52131 County Road 35, Bristol, IN 46507

By electronic mail via CM/ECF:

Debtor's Attorney: Patrick M. Seese

U.S. Trustee: ustpregion10.so.ecf@usdoj.gov

/s/ Debra L. Miller